

Internal Revenue Service
P. O. Box 2508
Cincinnati, OH 45201

Department of the Treasury

Number: 202031009
Release Date: 7/31/2020

Date: May 8, 2020

Employer Identification Number:

Person to Contact - ID#:

Contact Telephone Numbers:

LEGEND:

UIL: 509.02-01

C = Name
D = Time frame
E = Year
F = Name
G = Name
H = Name

w dollars = Amount
x dollars = Amount
y dollars = Amount
z dollars = Amount

Dear :

We have considered your request for recognition of an unusual grant under Treasury Regulations Section 1.170A-9(f)(6)(ii) and related provisions.

Based on the information provided, we have concluded that the proposed grant constitutes an unusual grant under Section 1.170A-9(f)(6)(ii) and related provisions of the regulations. The basis for our conclusion is set forth below.

Facts:

C is a nonoperating private foundation within your geographic area and has supported numerous public charities for numerous years. You will receive a grant from C in the approximate amount of w dollars within D. You became aware of this when C notified you of its plan in writing to cease all charitable functions, and consequently will deplete its assets within D. As part of the winding down of its operations, C intends to establish endowed funds with you to benefit these charities. Once the funds are established, you will make quarterly distributions to these charities based on your policies for these types of distributions. The grant will be used in your state by supporting charitable programs as well as establish initiatives to address gaps. Your board will determine specifically what these funds will be used for.

Regarding previous grants from C, you received support of x dollars as part of a large pooled grant numerous years ago to support education initiatives in your state. Furthermore, you

received a grant in E for y dollars for the establishment of F; you also received a grant in E for z dollars to support H.

Concerning your relationship with C other than the grants you have received, there are no prior or current relationships between you and C as organizations, or as relationships could extend to your trustees, directors, or officers. C does not exercise any control over you.

This grant donation is unusual in relation to the donations that you normally receive. Although grants from C may not be unexpected, the amount of the grant is unusual because of the fact C is winding down its operations, depleting its assets within D and setting up endowed funds with you.

The only condition that must be satisfied prior to the receipt of future grants is advanced approval that these grants during B's winding down period would be considered "unusual grants" so as to not unduly affect your public support test.

Law:

Treasury Regulations Sections 1.170A-9(f)(6)(ii) and 1.509(a)-3(c)(4) set forth the criteria for an unusual grant.

Treasury Regulations Section 1.170A-9(f)(6)(ii) states that, for purposes of applying the 2-percent limitation to determine whether the 33 1/3 percent-of-support test is satisfied, one or more contributions may be excluded from both the numerator and the denominator of the applicable percent-of-support fraction. The exclusion is generally intended to apply to substantial contributions or bequests from disinterested parties which:

- are attracted by reason of the publicly supported nature of the organization;
- are unusual or unexpected with respect to the amount thereof; and
- would, by reason of their size, adversely affect the status of the organization as normally being publicly supported.

Treasury Regulations Section 1.509(a)-3(c)(4) states that all pertinent facts and circumstances will be taken into consideration to determine whether a particular contribution may be excluded. No single factor will necessarily be determinative. Such factors may include:

- Whether the contribution was made by a person who
 - a. created the organization
 - b. previously contributed a substantial part of its support or endowment
 - c. stood in a position of authority with respect to the organization, such as a foundation manager within the meaning of Section 4946(b)
 - d. directly or indirectly exercised control over the organization, or
 - e. was in a relationship described in Internal Revenue Code Section 4946(a)(1)(C) through 4946(a)(1)(G) with someone listed in bullets a, b, c, or d above.

A contribution made by a person described in a. - e. is ordinarily given less favorable consideration than a contribution made by others not described above.

- Whether the contribution was a bequest or an inter vivos transfer. A bequest will ordinarily be given more favorable consideration than an inter vivos transfer.
- Whether the contribution was in the form of cash, readily marketable securities, or assets which further the exempt purposes of the organization, such as a gift of a painting to a museum.
- Whether (except in the case of a new organization) prior to the receipt of the particular contribution, the organization (a) has carried on an actual program of public solicitation and exempt activities and (b) has been able to attract a significant amount of public support.
- Whether the organization may reasonably be expected to attract a significant amount of public support after the particular contribution. Continued reliance on unusual grants to fund an organization's current operating expenses (as opposed to providing new endowment funds) may be evidence that the organization cannot reasonably be expected to attract future public support.
- Whether, prior to the year in which the particular contribution was received, the organization met the one-third support test described in Section 1.509(a)-3(a)(2) without the benefit of any exclusions of unusual grants pursuant to Section 1.509-3(c)(3);
- Whether the organization has a representative governing body as described in Treasury Regulations Section 1.509(a)-3(d)(3)(i); and
- Whether material restrictions or conditions within the meaning of Treasury Regulations Section 1.507-2(a)(7) have been imposed by the transferor upon the transferee in connection with such transfer.

Application of Law:

The grant meets the requirements of Treasury Regulations Section 1.170A-9(f)(6)(ii) because the grant is from a disinterested party, and:

- The grant was attracted by reason of your publicly supported nature;

- The grant is unusual or unexpected with respect to the amount;
- The grant will adversely affect your status as normally being publicly supported.

The grant meets the requirements of Treasury Regulations Section 1.509(a)-3(c)(4) based on the following facts and circumstances. The grantors are a disinterested party because:

- C did not create you;
- C has not previously contributed a substantial part of your support or endowment;
- C does not stand in a position of authority with respect to you.

In addition, you have carried on an actual program of public solicitation and exempt activities and have received a significant amount of public support. You also expect to attract a significant amount of public support after the grant donation.

If you have any questions, please contact the person listed in the heading of this letter.

Sincerely,

Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements